authority, the courts are not ousted of jurisdiction. DILLON ON MUN. CORP. Sec. 202, and cases there cited. Contra. *People* v. *Metzker*, 47 Cal. 524; *Peabody* v. *School Committee*, 115 Mass. 383; *People* v. *Harshaw*, 60 Mich., 200. And where it is expressly provided that the findings of the board shall be subject to review by the courts, the courts may take original jurisdiction. *People* v. *Hall*, 80 N. Y. 117.

EQUITY—MORTGAGES—REDEMPTION BY CO-TENANT—IMPROVEMENTS—RENTS AND PROFITS—EXECUTORS' AND ADMINISTRATORS' LIABILITY FOR UNPAID CLAIMS.—J. D. McQueen mortgaged the land in controversy to Faber and Rogers in February, 1876, and died in October of the same year.

Complainant is one of J. D. McQueen's heirs. Defendant is Rogers' administrator.

Faber and Rogers proceeding under the mortgage sold the land and Rogers assumed the bid made therefor, and took possession.

This sale did not cut off the equity of redemption because it was held (in *Rainey* v. *McQueen*, 121 Ala. 191) that if on a sale of land under a power contained in a mortgage the land is bid off by a person who afterwards declines to take it and the mortgagee takes the land at the amount bid by such person without any negotiation with him, the mortgagee is to be regarded either as a mortgagee in possession or a purchaser at his own sale. In either case the right to redeem is not cut off.

Later Rogers purchased the equity of redemption from McQueen's administrators acting under order of the probate court. This sale was void on account of failure to name and describe the property in the petition for sale in the probate court.

This suit was begun by a Bill to Redeem and included a claim for rents and profits and for waste.

The defendant offered by way of defense, the settlement of the estate and his discharge as administrator, and made a claim for improvements, and the further defense that Atwood and Claude McQueen, brothers of the complainant, had each an interest in the estate equal to hers but being respectively 25 and 26 years of age at the time this bill was filed they were barred by the statute from asserting any claim to the lands or rent, and therefore the complainant should be allowed only one-third of the surplus rents and profits.

Held:—First, That in the redemption of property sold under a mortgage the administrator of the mortgagee's estate is charged with the knowledge imputed to the mortgagee, that the equity had not been extinguished and is not entitled to improvements other than such as were necessary to keep the premises in repair.

Second:—That the voluntary settlement and distribution of the estate by the administrator did not discharge him from liability to the complainant. By reason of her minority she was not required to make presentation of her claims and is exempt from the imputation of laches.

Third:—That where the complainant and two others were tenants in common of an equity of redemption, she was entitled in an action brought by herself alone to redeem, to recover on account of surplus rents and profits, the whole of the balance found dne from the mortgagee's estate and not merely her one-third interest therein. From this holding Dowdell and Sharpe JJ. dissented. *Whetstone et al* v. *McQueen* (1903), — Ala. — 34 So. Rep. 229.

The weight of authority seems to be with the majority decision. *Hubbard* v. *A. M. Dam Co.*, 20 Ver. 402, 50 Am. Dec. 41; *Robinson* v. *Leavitt*, 7 N. H. 73; 2 JONES MORTGAGES 176; 3 POM. EQ. JUR. 1212-1213-1220; 2 STORY EQ. 1023; *Boqut* v. *Coburn*, 27 Barb. 230; *In Re Willard*, 5 Wend. 94.

Contra: FREEMAN ON COTENANCY, Par. 176; *Kirkpatrick* v. *Matheod*, 4 Watts & S. 251; *Quinn* v. *Kenney*, 47 Cal. 147.